

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MASSACHUSETTS

JOSEPH LEDOUX SR.,
Petitioner.

v.

C.A. 04-10116-WGY

KATHLEEN M. DENNEHY, et al.
Respondents.

ADDITIONAL MEMORANDUM IN OPPOSITION TO
RESPONDENTS' MOTION TO DISMISS PETITION FOR
WRIT OF HABEAS CORPUS AS TIME BARRED

The petitioner, LeDoux apologizes to The Court for mis-understanding it's prior order dated March 1, 2004 and submits the following additional memorandum to clarify his position.

28 U.S.C. § 2244 (d) (1) (A) states; A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to a judgement of a state court. The limitation shall run from the latest of-

(A) the date on which judgement became final by conclusion of direct review or expiration of time for seeking such review.

As the petitioner offered in his writ and subsequent memorandum of opposition, the judgement on his conviction did not become final until November 26, 2003, when the S.J.C. denied his request for further appellate review.

The petitioner's Motion for a New trial filed August 17, 2000, for which the time had not expired for such review, and the appeal from the motion's denial and request for further appellate review were all properly filed within the state's time

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limits and were considered by the state courts. And therefore tolled the limitations period during the pendency of a properly filed application for state post-conviction or other collateral review. 28 U.S.C. 2244 (d) (2), as this Court stated in it's order dated March 1, 2004.

Further, to address § 2244 (d) (1) (D), the petitioner did not discover the issues raised in the writ that is before The Court due to the alleged ineffective assistance of counsel that is at the heart of the writ. IT is alleged that defense counsel mislead the petitioner, which lead to an involuntary coerced guilty plea.

CONCLUSION

For the foregoing reasons the petitioner respectfully requests that the respondent's motion to dismiss the petitioner's writ of habeas corpus as time barred be denied.

Respectfully submitted,



Joseph LeDoux Sr. pro se
P.O. Box 1069
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the respondent's attorney by depositing a copy in the institutional mail box for delivery by first class postage prepaid to Maura D. McLaughlin, A.A.G. at One Ashburnham Pl. Boston, MA 02108 on this 14 day of April 2004.


Joseph LeDoux Sr